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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MCF 21061]

Frank Sherman, FSCS Corporation, TMS West Coast, Inc., Evergreen Trails, Inc., and Horizon Coach Lines NC Inc.—Intra-Corporate Family Transaction Exemption

Frank Sherman, FSCS Corporation (FSCS), Evergreen Trails, Inc. (Evergreen), TMS West Coast, Inc. (TMS), and Horizon Coach Lines NC Inc. (Horizon NC) (collectively, Applicants), have filed a verified notice of exemption under the Board's class exemption procedures at 49 C.F.R. § 1182.9.¹ Frank Sherman is an individual who controls motor passenger carrier Evergreen and is the controlling shareholder of FSCS. Evergreen, which conducts its motor passenger carrier operations using d/b/a/ Horizon Coach Lines, is directly owned by the noncarrier holding company TMS, which in turn is owned by the noncarrier holding company FSCS. Horizon NC is directly owned by FSCS. Currently, Horizon NC is not operating as a motor carrier and does not hold any motor carrier assets. Both Horizon NC and Evergreen are ultimately controlled by Mr. Sherman.

¹ The Board has exempted intra-corporate family transactions of motor carriers of passengers that do not result in significant operational changes, adverse changes in service levels, or a change in the competitive balance with carriers outside the corporate family in Class Exemption for Motor Passenger Intra-Corporate Family Transactions, FD 33685 (STB served Feb. 18, 2000).

Applicants state that the purpose of this reorganization is to enhance the efficiency of the North Carolina operations and avoid certain costs that would otherwise be incurred if Evergreen continued to conduct the operations. This notice will permit a transaction to go forward that will allow Horizon NC, an affiliate of Evergreen, to acquire and operate Evergreen's North Carolina assets, including its intrastate operating authority, motor carrier passenger services, and certain key management personnel. This transaction will allow Evergreen to limit its reporting obligations in North Carolina to drivers and operations statewide, rather than nationwide. Applicants state that there would be no change in services currently offered or the management and assets used to provide these services. Applicants point out that the existing services being performed by Evergreen and its assets would simply be controlled by a different corporate entity within Evergreen's corporate family.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 C.F.R. § 1182.9. Applicants state that the transaction has not and will not result in any change in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family. Applicants also state that (1) Horizon NC will acquire control of Evergreen's North Carolina assets through an internal arrangement that will be entered into between Horizon NC and Evergreen, and (2) the only effect on employees is that employees currently employed by Evergreen in North Carolina will be employed Horizon NC.

Applicants state that the transaction will not be consummated until at least seven days after the filing date of the verified notice of exemption. The notice was filed on December 31, 2014; therefore, consummation could occur on or after January 7, 2015.

If the verified notice contains false or misleading information, the Board shall summarily revoke the exemption and require divestiture. Petitions to revoke the exemption under 49 U.S.C. § 13541(d) may be filed at any time. See 49 C.F.R. § 1182.9(c).

An original and ten copies of all pleadings, referring to Docket No. MCF 21061, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: January 26, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.